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Attorney for Claimant, Erlinda Costales

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Petitioner,

v.

ONE RESIDENTIAL PROPERTY
LOCATED AT 30220 COOL VALLEY
LANE, VALLEY CENTER, CA, AND
ALL IMPROVEMENTS AND
APPURTENANCES AFFIXED THERETO,

ONE RESIDENTIAL PROPERTY
LOCATED AT 681 DOUGLAS AVENUE,
SAN MARCOS, CA, AND ALL
IMPROVEMENTS AND
APPURTENANCES AFFIXED THERETO,

ONE RESIDENTIAL PROPERTY
LOCATED AT 1228 CORTE BELLO,
SAN MARCOS, CA, AND ALL
IMPROVEMENTS AND
APPURTENANCES AFFIXED THERETO,

Defendants.

CASE NO.: 07CV2342LABJMA

ANSWER TO COMPLAINT FOR
FORFEITURE AND DEMAND
FOR JURY TRIAL

COMES NOW the Claimant, ERLINDA COSTALES, and in answer to Plaintiff's Complaint
for Forfeiture, hereby responds, alleges, and otherwise pleads as follows:

1. Claimant admits the allegations contained in Paragraph 1 of the Complaint for
Forfeiture.

2. Claimant denies each and every allegations set forth in Paragraph 2 of the Complaint

1 for Forfeiture in the conjunctive as well as the disjunctive.

2 3. Claimant denies each and every allegations set forth in Paragraph 3 of the Complaint
3 for Forfeiture in the conjunctive as well as the disjunctive.

4 4. Answering Paragraph 4 of the Complaint for Forfeiture, Claimant has no information
5 or belief sufficient to enable her to answer the allegations contained therein, and basing her denial on
6 that ground, denies each and every allegation contained therein in the conjunctive as well as the
7 disjunctive.

8 5. Claimant denies each and every allegations set forth in Paragraph 6 of the Complaint
9 for Forfeiture in the conjunctive as well as the disjunctive.

10 6. Claimant denies each and every allegations set forth in Paragraph 7 of the Complaint
11 for Forfeiture in the conjunctive as well as the disjunctive.

12 7. Claimant denies each and every allegations set forth in Paragraph 8 of the Complaint
13 for Forfeiture in the conjunctive as well as the disjunctive.

14 8. Answering Paragraph 9 of the Complaint for Forfeiture, Claimant has no information
15 or belief sufficient to enable her to answer the allegations contained therein, and basing her denial on
16 that ground, denies each and every allegation contained therein in the conjunctive as well as the
17 disjunctive.

18 9. Claimant denies each and every allegations set forth in Paragraph 11 of the Complaint
19 for Forfeiture in the conjunctive as well as the disjunctive.

20 10. Claimant denies each and every allegations set forth in Paragraph 12 of the Complaint
21 for Forfeiture in the conjunctive as well as the disjunctive.

22 11. Claimant denies each and every allegations set forth in Paragraph 13 of the Complaint
23 for Forfeiture in the conjunctive as well as the disjunctive.

24 12. Answering Paragraph 14 of the Complaint for Forfeiture, Claimant has no information
25 or belief sufficient to enable her to answer the allegations contained therein, and basing her denial on
26 that ground, denies each and every allegation contained therein in the conjunctive as well as the
27 disjunctive.

28 13. Claimant denies each and every allegations set forth in Paragraph 16 of the Complaint

1 for Forfeiture in the conjunctive as well as the disjunctive.

2 14. Claimant denies each and every allegations set forth in Paragraph 17 of the Complaint
3 for Forfeiture in the conjunctive as well as the disjunctive.

4 15. Claimant denies each and every allegations set forth in Paragraph 18 of the Complaint
5 for Forfeiture in the conjunctive as well as the disjunctive.

6 16. Answering Paragraph 19 of the Complaint for Forfeiture, Claimant has no information
7 or belief sufficient to enable her to answer the allegations contained therein, and basing her denial on
8 that ground, denies each and every allegation contained therein in the conjunctive as well as the
9 disjunctive.

10 **AFFIRMATIVE DEFENSE(S)**

11 **FIRST AFFIRMATIVE DEFENSE**

12 For a further and separate answer to the Complaint for Forfeiture, Claimant alleges the subject
13 Amended Complaint as pled fails to state facts sufficient to constitute a cause of action against the
14 defendant property.

15 **SECOND AFFIRMATIVE DEFENSE**

16 For a further and separate answer to the Complaint for Forfeiture, Claimant alleges Plaintiff
17 lacked probable cause for the institution of this forfeiture action.

18 **THIRD AFFIRMATIVE DEFENSE**

19 For a further and separate answer to the Complaint for Forfeiture, Claimant alleges that the
20 forfeiture in this case is disproportionate, and is a violation of the Eighth Amendment to the United
21 States Constitution.

22 **FOURTH AFFIRMATIVE DEFENSE**

23 For a further and separate answer to the Complaint for Forfeiture, Claimant alleges that the
24 searches which led to this forfeiture action, including but not limited to any electronic surveillance
25 utilized in the investigation leading to said forfeiture action, violated the Fourth Amendment to the
26 United States Constitution.

27 **JURY DEMAND**

28 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and general federal law,

1 Claimant demands a trial by jury in connection with the subject action.

2 WHEREFORE, Claimant prays for judgment as follows:

- 3 1. That the Complaint for Forfeiture be dismissed with prejudice;
4 2. That the subject property be returned to Claimant;
5 3. For reasonable attorney's fees herein and costs of suit; and
6 4. For such other and further relief as the Court may deem just.

7 DATED: 1-19-08


RANDALL T. PAGE, ESQ.

Attorney for Claimant
ERLINDA COSTALES

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed with the law firm of PAGE, LOBO, COSTALES & PRESTON, A.P.C., whose address is 24910 Las Brisas Road, Suite 102 Murrieta, CA 92562. I am over the age of eighteen, and I am not a party to this action.

On January 23, 2008, I caused service of the Answer to Complaint for Forfeiture and Demand for Jury Trial on the following parties be electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies said parties:

1. Karen P. Hewitt, United States Attorney, Attorney for Plaintiff
2. David M. McNees, Special Assistant U.S. Attorney, Attorney for Plaintiff

Date: January 22, 2008


REBEKAH BRASEE